

108TH CONGRESS  
1ST SESSION

# **H. R. 1584**

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## **AN ACT**

To implement effective measures to stop trade in  
conflict diamonds, and for other purposes.



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## AN ACT

To implement effective measures to stop trade in conflict  
diamonds, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Clean Diamond Trade  
3 Act”.

4 **SEC. 2. FINDINGS.**

5       Congress finds the following:

6           (1) Funds derived from the sale of rough dia-  
7       monds are being used by rebels and state actors to  
8       finance military activities, overthrow legitimate gov-  
9       ernments, subvert international efforts to promote  
10      peace and stability, and commit horrifying atrocities  
11      against unarmed civilians. During the past decade,  
12      more than 6,500,000 people from Sierra Leone, An-  
13      gola, and the Democratic Republic of the Congo  
14      have been driven from their homes by wars waged  
15      in large part for control of diamond mining areas.  
16      A million of these are refugees eking out a miserable  
17      existence in neighboring countries, and tens of thou-  
18      sands have fled to the United States. Approximately  
19      3,700,000 people have died during these wars.

20          (2) The countries caught in this fighting are  
21      home to nearly 70,000,000 people whose societies  
22      have been torn apart not only by fighting but also  
23      by terrible human rights violations.

24          (3) Human rights and humanitarian advocates,  
25      the diamond trade as represented by the World Dia-  
26      mond Council, and the United States Government

1 have been working to block the trade in conflict dia-  
2 monds. Their efforts have helped to build a con-  
3 sensus that action is urgently needed to end the  
4 trade in conflict diamonds.

5 (4) The United Nations Security Council has  
6 acted at various times under chapter VII of the  
7 Charter of the United Nations to address threats to  
8 international peace and security posed by conflicts  
9 linked to diamonds. Through these actions, it has  
10 prohibited all states from exporting weapons to cer-  
11 tain countries affected by such conflicts. It has fur-  
12 ther required all states to prohibit the direct and in-  
13 direct import of rough diamonds from Sierra Leone  
14 unless the diamonds are controlled under specified  
15 certificate of origin regimes and to prohibit abso-  
16 lutely the direct and indirect import of rough dia-  
17 monds from Liberia.

18 (5) In response, the United States implemented  
19 sanctions restricting the importation of rough dia-  
20 monds from Sierra Leone to those diamonds accom-  
21 panied by specified certificates of origin and fully  
22 prohibiting the importation of rough diamonds from  
23 Liberia. The United States is now taking further ac-  
24 tion against trade in conflict diamonds.

1           (6) Without effective action to eliminate trade  
2       in conflict diamonds, the trade in legitimate dia-  
3       monds faces the threat of a consumer backlash that  
4       could damage the economies of countries not in-  
5       volved in the trade in conflict diamonds and penalize  
6       members of the legitimate trade and the people they  
7       employ. To prevent that, South Africa and more  
8       than 30 other countries are involved in working,  
9       through the “Kimberley Process”, toward devising a  
10      solution to this problem. As the consumer of a ma-  
11      jority of the world’s supply of diamonds, the United  
12      States has an obligation to help sever the link be-  
13      tween diamonds and conflict and press for imple-  
14      mentation of an effective solution.

15          (7) Failure to curtail the trade in conflict dia-  
16      monds or to differentiate between the trade in con-  
17      flict diamonds and the trade in legitimate diamonds  
18      could have a severe negative impact on the legiti-  
19      mate diamond trade in countries such as Botswana,  
20      Namibia, South Africa, and Tanzania.

21          (8) Initiatives of the United States seek to re-  
22      solve the regional conflicts in sub-Saharan Africa  
23      which facilitate the trade in conflict diamonds.

24          (9) The Interlaken Declaration on the Kim-  
25      berley Process Certification Scheme for Rough Dia-

1       monds of November 5, 2002, states that Partici-  
2       pants will ensure that measures taken to implement  
3       the Kimberley Process Certification Scheme for  
4       Rough Diamonds will be consistent with inter-  
5       national trade rules.

6   **SEC. 3. DEFINITIONS.**

7       In this Act:

8           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
9       TEES.—The term “appropriate congressional com-  
10      mittees” means the Committee on Ways and Means  
11      and the Committee on International Relations of the  
12      House of Representatives, and the Committee on Fi-  
13      nance and the Committee on Foreign Relations of  
14      the Senate.

15          (2) CONTROLLED THROUGH THE KIMBERLEY  
16      PROCESS CERTIFICATION SCHEME.—An importation  
17      or exportation of rough diamonds is “controlled  
18      through the Kimberley Process Certification  
19      Scheme” if it is an importation from the territory of  
20      a Participant or exportation to the territory of a  
21      Participant of rough diamonds that is—

22           (A) carried out in accordance with the  
23      Kimberley Process Certification Scheme, as set  
24      forth in regulations promulgated by the Presi-  
25      dent; or

1 (B) controlled under a system determined  
2 by the President to meet substantially the  
3 standards, practices, and procedures of the  
4 Kimberley Process Certification Scheme.

5 (3) EXPORTING AUTHORITY.—The term “ex-  
6 porting authority” means 1 or more entities des-  
7 ignated by a Participant from whose territory a  
8 shipment of rough diamonds is being exported as  
9 having the authority to validate the Kimberley Proc-  
10 ess Certificate.

11 (4) IMPORTING AUTHORITY.—The term “im-  
12 porting authority” means 1 or more entities des-  
13 ignated by a Participant into whose territory a ship-  
14 ment of rough diamonds is imported as having the  
15 authority to enforce the laws and regulations of the  
16 Participant regulating imports, including the  
17 verification of the Kimberley Process Certificate ac-  
18 companying the shipment.

19 (5) KIMBERLEY PROCESS CERTIFICATE.—The  
20 term “Kimberley Process Certificate” means a for-  
21 gery resistant document of a Participant that dem-  
22 onstrates that an importation or exportation of  
23 rough diamonds has been controlled through the  
24 Kimberley Process Certification Scheme and con-



1 tains the minimum elements set forth in Annex I to  
2 the Kimberley Process Certification Scheme.

3 (6) KIMBERLEY PROCESS CERTIFICATION  
4 SCHEME.—The term “Kimberley Process Certifi-  
5 cation Scheme” means those standards, practices,  
6 and procedures of the international certification  
7 scheme for rough diamonds presented in the docu-  
8 ment entitled “Kimberley Process Certification  
9 Scheme” referred to in the Interlaken Declaration  
10 on the Kimberley Process Certification Scheme for  
11 Rough Diamonds of November 5, 2002.

12 (7) PARTICIPANT.—The term “Participant”  
13 means a state, customs territory, or regional eco-  
14 nomic integration organization identified by the Sec-  
15 retary of State.

16 (8) PERSON.—The term “person” means an in-  
17 dividual or entity.

18 (9) ROUGH DIAMOND.—The term “rough dia-  
19 mond” means any diamond that is unworked or sim-  
20 ply sawn, cleaved, or bruted and classifiable under  
21 subheading 7102.10, 7102.21, or 7102.31 of the  
22 Harmonized Tariff Schedule of the United States.

23 (10) UNITED STATES.—The term “United  
24 States”, when used in the geographic sense, means  
25 the several States, the District of Columbia, and any

1 commonwealth, territory, or possession of the United  
2 States.

3 (11) UNITED STATES PERSON.—The term  
4 “United States person” means—

5 (A) any United States citizen or any alien  
6 admitted for permanent residence into the  
7 United States;

8 (B) any entity organized under the laws of  
9 the United States or any jurisdiction within the  
10 United States (including its foreign branches);  
11 and

12 (C) any person in the United States.

13 **SEC. 4. MEASURES FOR THE IMPORTATION AND EXPOR-**  
14 **TATION OF ROUGH DIAMONDS.**

15 (a) PROHIBITION.—The President shall prohibit the  
16 importation into, or exportation from, the United States  
17 of any rough diamond, from whatever source, that has not  
18 been controlled through the Kimberley Process Certifi-  
19 cation Scheme.

20 (b) WAIVER.—The President may waive the require-  
21 ments set forth in subsection (a) with respect to a par-  
22 ticular country for periods of not more than 1 year each,  
23 if, with respect to each such waiver—

24 (1) the President determines and reports to the  
25 appropriate congressional committees that such

1 country is taking effective steps to implement the  
2 Kimberley Process Certification Scheme; or

3 (2) the President determines that the waiver is  
4 in the national interests of the United States, and  
5 reports such determination to the appropriate con-  
6 gressional committees, together with the reasons  
7 therefor.

8 **SEC. 5. REGULATORY AND OTHER AUTHORITY.**

9 (a) IN GENERAL.—The President is authorized to  
10 and shall as necessary issue such proclamations, regula-  
11 tions, licenses, and orders, and conduct such investiga-  
12 tions, as may be necessary to carry out this Act.

13 (b) RECORDKEEPING.—Any United States person  
14 seeking to export from or import into the United States  
15 any rough diamonds shall keep a full record of, in the form  
16 of reports or otherwise, complete information relating to  
17 any act or transaction to which any prohibition imposed  
18 under section 4(a) applies. The President may require  
19 such person to furnish such information under oath, in-  
20 cluding the production of books of account, records, con-  
21 tracts, letters, memoranda, or other papers, in the custody  
22 or control of such person.

23 (c) OVERSIGHT.—The President shall require the ap-  
24 propriate Government agency to conduct annual reviews  
25 of the standards, practices, and procedures of any entity

1 in the United States that issues Kimberley Process Certifi-  
2 cates for the exportation from the United States of rough  
3 diamonds to determine whether such standards, practices,  
4 and procedures are in accordance with the Kimberley  
5 Process Certification Scheme. The President shall trans-  
6 mit to the appropriate congressional committees a report  
7 on each annual review under this subsection.

8 **SEC. 6. IMPORTING AND EXPORTING AUTHORITIES.**

9 (a) IN THE UNITED STATES.—For purposes of this  
10 Act—

11 (1) the importing authority shall be the United  
12 States Bureau of Customs and Border Protection or,  
13 in the case of a territory or possession of the United  
14 States with its own customs administration, analo-  
15 gous officials; and

16 (2) the exporting authority shall be the Bureau  
17 of the Census.

18 (b) OF OTHER COUNTRIES.—The President shall  
19 publish in the Federal Register a list of all Participants,  
20 and all exporting authorities and importing authorities of  
21 Participants. The Secretary shall update the list as nec-  
22 essary.

23 **SEC. 7. STATEMENT OF POLICY.**

24 The Congress supports the policy that the President  
25 shall take appropriate steps to promote and facilitate the

1 adoption by the international community of the Kimberley  
2 Process Certification Scheme implemented under this Act.

3 **SEC. 8. ENFORCEMENT.**

4 (a) IN GENERAL.—In addition to the enforcement  
5 provisions set forth in subsection (b)—

6 (1) a civil penalty of not to exceed \$10,000 may  
7 be imposed on any person who violates, or attempts  
8 to violate, any license, order, or regulation issued  
9 under this Act; and

10 (2) whoever willfully violates, or willfully at-  
11 tempts to violate, any license, order, or regulation  
12 issued under this Act shall, upon conviction, be fined  
13 not more than \$50,000, or, if a natural person, may  
14 be imprisoned for not more than 10 years, or both;  
15 and any officer, director, or agent of any corporation  
16 who willfully participates in such violation may be  
17 punished by a like fine, imprisonment, or both.

18 (b) IMPORT VIOLATIONS.—Those customs laws of the  
19 United States, both civil and criminal, including those  
20 laws relating to seizure and forfeiture, that apply to arti-  
21 cles imported in violation of such laws shall apply with  
22 respect to rough diamonds imported in violation of this  
23 Act.

24 (c) AUTHORITY TO ENFORCE.—The United States  
25 Bureau of Customs and Border Protection and the United

1 States Bureau of Immigration and Customs Enforcement  
2 are authorized, as appropriate, to enforce the provisions  
3 of subsection (a) and to enforce the laws and regulations  
4 governing exports of rough diamonds, including with re-  
5 spect to the validation of the Kimberley Process Certifi-  
6 cate by the exporting authority.

7 **SEC. 9. TECHNICAL ASSISTANCE.**

8       The President may direct the appropriate agencies of  
9 the United States Government to make available technical  
10 assistance to countries seeking to implement the Kim-  
11 berley Process Certification Scheme.

12 **SEC. 10. SENSE OF CONGRESS.**

13       (a) ONGOING PROCESS.—It is the sense of the Con-  
14 gress that the Kimberley Process Certification Scheme, of-  
15 ficially launched on January 1, 2003, is an ongoing proc-  
16 ess. The President should work with Participants to  
17 strengthen the Kimberley Process Certification Scheme  
18 through the adoption of measures for the sharing of statis-  
19 tics on the production of and trade in rough diamonds,  
20 and for monitoring the effectiveness of the Kimberley  
21 Process Certification Scheme in stemming trade in dia-  
22 monds the importation or exportation of which is not con-  
23 trolled through the Kimberley Process Certification  
24 Scheme.

1 (b) STATISTICS AND REPORTING.—It is the sense of  
2 the Congress that under Annex III to the Kimberley Proc-  
3 ess Certification Scheme, Participants recognized that re-  
4 liable and comparable data on the international trade in  
5 rough diamonds are an essential tool for the effective im-  
6 plementation of the Kimberley Process Certification  
7 Scheme. Therefore, the executive branch should continue  
8 to—

9 (1) keep and publish statistics on imports and  
10 exports of rough diamonds under subheadings  
11 7102.10.00, 7102.21, and 7102.31.00 of the Har-  
12 monized Tariff Schedule of the United States;

13 (2) make these statistics available for analysis  
14 by interested parties and by Participants; and

15 (3) take a leadership role in negotiating a  
16 standardized methodology among Participants for  
17 reporting statistics on imports and exports of rough  
18 diamonds.

19 **SEC. 11. KIMBERLEY PROCESS IMPLEMENTATION COORDI-**  
20 **NATING COMMITTEE.**

21 The President shall establish a Kimberley Process  
22 Implementation Coordinating Committee to coordinate the  
23 implementation of this Act. The Committee should be  
24 composed of the following individuals or their designees:

1           (1) The Secretary of the Treasury and the Sec-  
2       retary of State, to serve as co-chairpersons.

3           (2) The Secretary of Commerce.

4           (3) The United States Trade Representative.

5           (4) The Secretary of Homeland Security.

6           (5) A representative of any other agency the  
7       President deems appropriate.

8       **SEC. 12. REPORTS.**

9           (a) ANNUAL REPORTS.—Not later than 1 year after  
10      the date of the enactment of this Act and every 12 months  
11      thereafter for such period as this Act is in effect, the  
12      President shall transmit to the Congress a report—

13           (1) describing actions taken by countries that  
14      have exported rough diamonds to the United States  
15      during the preceding 12-month period to control the  
16      exportation of the diamonds through the Kimberley  
17      Process Certification Scheme;

18           (2) describing whether there is statistical infor-  
19      mation or other evidence that would indicate efforts  
20      to circumvent the Kimberley Process Certification  
21      Scheme, including cutting rough diamonds for the  
22      purpose of circumventing the Kimberley Process  
23      Certification Scheme;

24           (3) identifying each country that, during the  
25      preceding 12-month period, exported rough dia-



1       monds to the United States and was exporting rough  
2       diamonds not controlled through the Kimberley  
3       Process Certification Scheme, if the failure to do so  
4       has significantly increased the likelihood that those  
5       diamonds not so controlled are being imported into  
6       the United States; and

7               (4) identifying any problems or obstacles en-  
8       countered in the implementation of this Act or the  
9       Kimberly Process Certification Scheme.

10       (b) SEMIANNUAL REPORTS.—For each country iden-  
11      tified in subsection (a)(3), the President, during such pe-  
12      riod as this Act is in effect, shall, every 6 months after  
13      the initial report in which the country was identified,  
14      transmit to the Congress a report that explains what ac-  
15      tions have been taken by the United States or such coun-  
16      try since the previous report to ensure that diamonds the  
17      exportation of which was not controlled through the Kim-  
18      berley Process Certification Scheme are not being im-  
19      ported from that country into the United States. The re-  
20      quirement to issue a semiannual report with respect to a  
21      country under this subsection shall remain in effect until  
22      such time as the country is controlling the importation and  
23      exportation of rough diamonds through the Kimberley  
24      Process Certification Scheme.

1 **SEC. 13. GAO REPORT.**

2 Not later than 24 months after the effective date of  
3 this Act, the Comptroller General of the United States  
4 shall transmit a report to the Congress on the effective-  
5 ness of the provisions of this Act in preventing the impor-  
6 tation or exportation of rough diamonds that is prohibited  
7 under section 4. The Comptroller General shall include in  
8 the report any recommendations on any modifications to  
9 this Act that may be necessary.

10 **SEC. 14. DELEGATION OF AUTHORITIES.**

11 The President may delegate the duties and authori-  
12 ties under this Act to such officers, officials, departments,  
13 or agencies of the United States Government as the Presi-  
14 dent deems appropriate.

15 **SEC. 15. EFFECTIVE DATE.**

16 This Act shall take effect on the date on which the  
17 President certifies to the Congress that—

18 (1) an applicable waiver that has been granted  
19 by the World Trade Organization is in effect; or

20 (2) an applicable decision in a resolution adopt-  
21 ed by the United Nations Security Council pursuant  
22 to Chapter VII of the Charter of the United Nations  
23 is in effect.

24 This Act shall thereafter remain in effect during those pe-  
25 riods in which, as certified by the President to the Con-

- 1 gress, an applicable waiver or decision referred to in para-
- 2 graph (1) or (2) is in effect.

Passed the House of Representatives April 8, 2003.

Attest:

*Clerk.*